

THE CONSPIRACY CASES.

THE MOTION TO DISMISS IS OVERRULED.

And the Court Proceeds With the Taking of Testimony on Behalf of the Defendants.

At the opening of the Court this morning the decision of Judge Carter in the conspiracy cases was put off for an hour to allow of the dispatch of some minor cases. At eleven o'clock, in the presence of a crowded court room, Judge Carter called the case of the Provisional Government vs. Walker, Sinclair and Crick, and read the following decision on the defendants' motion to dismiss:

The Court regrets very much that the limited time at its disposal for coming to a conclusion upon this motion has prevented a more thorough and careful analysis of the evidence offered on behalf of the prosecution and the Court would like to have made, and the conclusion reached must not be taken as indicating in any way a conclusion which might be reached upon a full examination of the testimony taken. It must be remembered that the motion is simply preliminary, and that, as is ordinarily the case with a motion of that kind, it does not carry the weight of one made at another stage of the proceedings. I have hastily written down some of the points I have gathered together, which I will read.

Defendants are charged with conspiracy. Conspiracy is defined by our penal code to be a "malicious combination or mutual understanding or concerting together of two or more to commit, etc." A conspiracy, therefore, consists, not merely in intention, but in agreement, by two or more persons. There must be a previous concert to do the unlawful act. Their agreement is an act in advancement of the intent of each. The agreement may be express or implied, and it is not essential that any but the leading conspirators know the exact part each is to perform. The least degree of consent or collusion is sufficient, and this joint assent of minds, like all other parts of a criminal case, may be established as an inference of the jury. It is sufficient if two or more in any manner, through any contrivance, positively or tacitly, come to an understanding. Base combination with joint design is sufficient. The common design or object of the defendants is clearly disclosed by the testimony to have been the overthrow of the Provisional Government. It is not necessary to constitute a conspiracy that the means should be predetermined. The question here is whether there was any collusion. The evidence so far clearly indicates that there was between the defendants Walker and Sinclair. But is there *prima facie* evidence that Crick was one of these. It is very slight and the Court is called upon to consider whether it is sufficient to put him upon his defense.

The only manner in which I can reach a conclusion is by reversing the proposition in this form: Is there probable cause to believe, on the evidence offered by the prosecution in support of the charge that a jury would accept the hypothesis that Walker and Sinclair, on the one hand, and Crick, on the other, were both designing the overthrow of the Government entirely independent. The declarations of Walker and Crick indicate collusion as to explosives to be used, the two were seen together visiting the person to whom the declarations had been made, and on other occasions. Crick roomed in Sinclair's house, and these, with other like matters, though very slenderly connect Crick with the others charged sufficiently to make it impossible for me to believe that his design was independent of that of the others.

The motion for discharge is therefore overruled, and the accused may proceed with their defense.

The first witness for the defense was John Phillips, who testified that Marmont's veracity was not good, especially with the people he lived with, and that he had a bad reputation generally.

A. M. Brown testified that he was deputy marshal and as such had searched the premises of Cummins and Walker on the day of the arrests, and had once searched the Central House, but had found no explosives.

John Cummins testified that he was related to Walker, and that all of Marmont's testimony in relation to drilling men at his house was untrue. He had given Colonel Soper a list of the arms in his possession some time since.

Major Seward, Cummins' private secretary, corroborated all that he had sworn to, but went into details about the stables, yard, etc., at the residence.

Colonel J. H. Soper was the next witness called. He was examined as to lists of arms in his possession, and was finally asked if he thought it was probable any one on the Islands could have 1000 stand of arms in his possession unknown to the Government, to which he replied that it was not.

The Court then adjourned to 1:45 P. M.

Tug-of-War on the Fourth.

The native employees of the Honolulu Iron Works have organized a tug-of-war team which has been practicing every evening for three weeks past. They lately issued a challenge to the champion fish-market team to pull them for \$50 on the morning of the Fourth. The challenge was promptly accepted and the pull will come off early in the morning. In addition to this the natives employed in the Iron Works have also raised an additional \$50 with which they propose to have a grand luau on the slopes of Punchbowl as soon as the tug-of-war is over, and to which their opponents will be invited.

DR. HUTCHINSON DEAD.

A Former Honolulu Expires at Sydney, Australia.

The following was received at the Foreign Affairs office from Ernest O. Smith, the Hawaiian Consul-General at Sydney.

SYDNEY, June 12, 1893.

HIS EXCELLENCY, THE MINISTER OF FOREIGN AFFAIRS, HONOLULU.

Sir: On the 10th of July, 1889, I wrote to the late Secretary of your department respecting Dr. F. W. Hutchinson, formerly of Honolulu, for whom enquiry was made by his friends. I now enclose a newspaper clipping announcing the death, on the 20th ultimo, of the gentleman in question, the whereabouts of whose friends by whom enquiry was made can, no doubt, be traced by Your Excellency's department.

As I was first referred to in this matter by the Hawaiian Consul at Brisbane I have informed that gentleman of the purport of this communication.

Your Excellency will observe, no doubt with satisfaction, a commencement by Messrs. Huddart, Parker & Co., of a steamship service between Australia and Vancouver's Island, calling at Honolulu. Subsidies to this new service have been already promised by this Colony with £10,000, and Canada of £25,000 per annum. The future of this new venture is a subject of great interest to the Australian Colonies.

I take the liberty of informing your Excellency that His Majesty the King of Portugal has been pleased to raise me to the position of his Consul-General here, where I have filled the office of Portuguese Consul for twenty-five years.

I have the honor to be your Excellency's most obedient humble servant, ERNEST O. SMITH, Hawaiian Consul-General.

The enclosure noted is as follows:

Hutchinson—May 20th, at his residence, 36 Arthur street, Leichhardt, Sydney, after a long illness, Ferdinand William Hutchinson, M. R. C. S. of Edinburgh, Scotland, late of Honolulu, Hawaii, aged 74 years. Deeply regretted.

TREES AND PLANTS ORDERED.

New Varieties From California and Australia.

The Bureau of Agriculture have ordered from Sydney a variety of fruit trees for the Government nurseries, consisting of the fig, almond, orange (20), lemon, citron, olive and Japanese persimmon.

From California varieties of eucalyptus, acacia, magnolia and an assortment of evergreens, all hitherto unknown here; also, 100 pounds of fine peach seeds, the trees from which are intended to form stock on which to graft all the best varieties, and an assortment of the best fig, almond and peach trees.

All of these will be set out in the rich valley below Tantalus, the design being to form a nursery there from which the Islands may be supplied with the choicest fruit trees of all descriptions at any time free of charge.

Funeral of the Murdered Sheriff.

The remains of Louis Stolz, the murdered Sheriff, were escorted to their last resting place in the Nuuanu cemetery yesterday at 4 P. M. from the residence of his wife's sister, Mrs. Reimen Schneider. A detachment of police preceded the funeral cortege and a large number of friends were present to aid in rendering the last sad rites to the murdered dead.

Death Rate Increasing.

During the week ending June 29th, twenty deaths were reported at the office of the Board of Health, which is over the average. Of these, fifteen were Hawaiians, three Portuguese and one American. The increase is presumed to be due from the ravages of the gripe among the natives.

PERSONAL.

M. Hyman of Hyman Bros. is in the city.

V. V. Ashford is off for Maui this afternoon.

Dr. R. W. Anderson returned by the Alameda this morning.

Peter Lee of the Volcano House came home this morning.

The irrepressible Jimmy Williams came home this morning.

The family of Captain Godfrey returned from the Coast to-day.

Mrs. C. L. Wight of Mahukona returned from San Francisco to-day.

Captain Neilson of the W. H. Diamond is one of the latest victims of the epidemic.

Hon. Paul Neumann is off on the steamer Claudine this afternoon for an outing on Hawaii.

Mrs. Allie Cartwright and family have returned after a two-months' visit to California.

Chas Wilcox, secretary of the Board of Health, leaves for Maui this afternoon on the Claudine.

Joe Giddard, the Australian heavy-weight prizefighter is on the Alameda, en route to the Colonies.

Claus Spreckels and Sam Parker went to Maui this afternoon on the Claudine to attend the Kahului races.

The following are booked to leave on the Canadian-Australian steamship Warrimoo, due to-morrow: Miss M. Kenwell, Rev. W. H. Peck, wife and child, Mr. and Mrs. David Rice, Robt. K. Rodgers, Mr. and Mrs. M. D. Monsarratt and two children, Mrs. T. R. Keyworth and child, Miss H. Needham, Lord Valletort, Hon. W. H. Lascelles, Mrs. G. H. Luce and Mr. and Mrs. A. Teck and two children.

LOUIS STOLZ' MURDERER.

THE GOVERNMENT INTENDS TO CAPTURE HIM.

Kalalau Lepers to be Cleaned Out—The "Bulletin's" Charges Refuted by Positive Evidence.

The murder of Deputy Sheriff Louis F. Stolz was almost the sole topic of conversation on the streets yesterday, and much surmise was expressed as to what action the Government would take in the matter. This was allayed to a great extent by a rumor which leaked out soon after the meeting of the Executive and Advisory Councils that the Government would take prompt action in the matter and send an expedition to Kauai for the purpose of cleaning out the leper settlement at Kalalau and capturing the murderer at any cost.

The expedition, which starts for that purpose on the Waialeale at 3 P. M. to-day, will consist of a force of about thirty well-armed men under the command of Captain William Larsen. Some of them are volunteers from the barracks, the rest citizens and police. Dr. Cooper and Health officer Reynolds will be in their several capacities. A small Krupp howitzer will be taken besides plenty of arms, ammunition and provisions. The steamer will go direct to Hanalei, thence to the Kalalau beach, where the expedition will be landed. It is understood that Captain Larsen is vested with supreme authority and has orders to bring the lepers out of the valley dead or alive. At noon to-day President Dole issued an order proclaiming martial law in the districts of Hanalei and Waialeale.

With regard to the outrageous charges made against the Board of Health in last night's issue of the *Bulletin*, the following official correspondence is commended to that unsavory sheet and its few readers:

[Letter No. 1.]

WAIMEA, Nov. 18, 1892. DAVID DAYTON, Esq., Pres. Board of Health, Honolulu.

Dear Sir:—A leper belonging to this district (Waimea) after having been examined by Dr. Campbell and having been notified that he would have to go to Molokai asked for and received permission to stay a week in order to settle up his affairs. This request, as has been our practice here, was granted upon his promise to be ready and willing to go upon return of the steamer Pele. He has broken his promise and gone over to Kalalau where so many other lepers are. As this is the first person who has escaped from this district since I have been deputy sheriff here, I am anxious to bring him back and have requested Dr. Campbell to get out a warrant for him, which he will do. Unless I receive positive orders to the contrary it is my intention to proceed shortly to Kalalau and endeavor to arrest the person in question, who is a man named Koolau. I think it quite probable that unless I happen upon him unawares resistance will be shown, as almost every man in Kalalau is armed, and much as I should regret it and endeavor to avoid it, somebody (it may be myself or a constable) may be hurt or killed. As the matter may assume proportions of an alarming kind, I would be pleased to receive any orders or advice which the Board of Health may deem proper in the matter, especially as the Board has, tacitly at least, tolerated the lepers in Kalalau and not ordered their removal, the man being therefore justified to a certain extent in going there.

Awaiting an answer, I remain, Yours etc., L. H. STOLZ.

[Letter No. 2.]

WAIMEA, KAUAI, April 29, 1893. HON. W. O. SMITH, Pres. Board of Health, Honolulu.

Dear Sir:—Allow me to respectfully call your attention to the fact that if it be the policy of the Board of Health to remove, during the present year, the lepers now residing at Kalalau, it would seem necessary that steps in the matter be taken shortly, as the months during which a steamer can effect a landing at Kalalau are at hand. If a system of segregation is to be carried out, undoubtedly these people and those at present on Nihaui should be removed to Molokai. It cannot be otherwise than that healthy persons will, and are at the present time becoming infected with leprosy in consequence of existing conditions. It is my opinion based on a knowledge of the facts that the amount of intimacy has been under-rated, and the difficulties of communication overrated.

I remain, respectfully, L. H. STOLZ, Ag't Bd. of Health, Waimea, K.

[Correct Copy.]

OFFICE OF THE BOARD OF HEALTH, HONOLULU, May 8, 1893.

L. H. STOLZ, Ag't Bd. of Health, Waimea, Kauai.

Sir:—I am instructed by the Board of Health to acknowledge the receipt of your letter of April 29, informing us of your views on the continued and illegal presence of lepers on Nihaui and Kalalau, Kauai.

The Board fully understands the gravity of the matter, and knows that an attempt to remove the lepers from Kalalau simply means reducing the place by force of arms, probably men will be killed on both sides.

However, before taking further steps in the matter, the Board desires you to send to this office a full report of the number, age, and sex of all the lepers at Kalalau, also, if possible, a like list of all the other people residing in the valley of Kalalau. It would also, perhaps, be interesting to the government to know the quantity and kind of fire-arms in their possession.

With regard to lepers on Nihaui you will please have them sent to Honolulu for examination first opportunity.

I have the honor to be your obedient servant, CHAS. WILCOX, Sec'y Board of Health.

[Letter No. 3.]

WAIMEA, May 19, 1893. BOARD OF HEALTH, HONOLULU.

Dear Sir:—I would respectfully represent, and strongly urge, that before any forcible steps are taken in regard to the removal of lepers from Kalalau (should the Board decide to remove them), that

1st. A stringent quarantine be placed in the valley of Kalalau, allowing no communication whatever either for the non-lepers or lepers, between Kalalau and other places. Boats are engaged in taking two and three to Nihaui and other places and presumably taking visitors back and forth. Should this course of income and communication be cut off and the well people told plainly that quarantine would not be removed until the sick people were gone; I am sure that it would have a most salutary influence on the non-lepers and cause them to work and assist in the removal of the lepers. To accomplish and carry into effect such a quarantine, three stations would in my mind be necessary. One on the Hanalei trail of two white men and four natives, one on the Waimea trail of like get up and strength; and one on the beach at Kalalau to prevent boats or canoes from leaving or landing.

2nd.—As soon as the Board decides on the removal of said lepers a good man should be sent in to Kalalau to urge and persuade them to give in peaceably. Something might be accomplished.

Mr. F. Gay goes up to-day to Honolulu and his views on the subject are worth hearing. My only object in giving my two views to the Board is that time is flying.

I am respectfully, L. H. STOLZ, Agent Board of Health.

[Letter No. 4.]

WAIMEA, May 23, 1893. HON. W. O. SMITH, Pres. Board of Health, Honolulu.

Sir:—In accordance with your request, I send herewith a complete list of the residents of the valley of Kalalau, Kauai. There are twenty-three households in the valley, four of which, however, consist of only one old man each.

In nine households no leprosy is visible to a casual observer.

In three households all the inmates are afflicted with leprosy, while in eleven households the inmates are part lepers and part non-lepers.

The population number 102; of whom 74 are apparently non-lepers and 28 are lepers. Of the lepers 18 are male, 10 are female, 18 are adults, 10 are minors. Of these only three are available and one of these belongs to a non-leper. I refer you to the list for more particular information. The lepers do not wish to be taken away, as they believe the new Japanese doctor at Kilauea may be able to cure some of them. I am of the belief that if these two and perhaps one or two others were removed that most of the rest would go voluntarily. I also believe that these leaders could be taken with a small force.

Two or three men like Sam Ku with what material we have here, would do. To obtain the enclosed list, it was necessary for me to hire a canoe from Mana to Kalalau and return at an expense of ten dollars. I will send voucher for same as soon as signed.

I remain, respectfully, L. H. STOLZ, Agent Board of Health.

[Letter No. 5.]

DEPARTMENT OF THE ATTORNEY-GENERAL, [Copy.]

HONOLULU, H. I., May 31, 1893. L. H. STOLZ, Esq., Deputy Sheriff and Agent Board of Health, Waimea, Kauai.

Dear Sir:—The Board of Health have carefully considered your full report in regard to lepers at Kalalau, as also your suggestions as to best method to be pursued to remove them.

The plan of laying siege, and preventing communication with the valley meets with the objection that the well people there might have legal remedies against us if we thus restrained them of their liberty.

The Board desires to have them removed, and the plan you suggest may have to be resorted to, but before doing that, the Board desires that you go to Kalalau and interview J. Kauai and other lepers, and people there, and see if any other plan will answer. Your expenses will, of course, be paid by the Board.

Use your own good judgment in regard to what to say to them.

If some, or all of them, can be persuaded to come away we can arrange to send a steamer there at an appointed time to bring them to Honolulu for examination. And those who have to be sent to Molokai will be well cared for and have their wants supplied.

Respectfully Yours, WILLIAM O. SMITH, Attorney-General.

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Respectfully Yours, WILLIAM O. SMITH, Attorney-General.

WAIMEA, June 8th, 1893.

HON. W. O. SMITH, Attorney-General.

Dear Sir:—In accordance with the instructions contained in your letter of the 31st ult., I went to Kalalau and personally interviewed most of the lepers. I find out of the 28 reported cases, 6 cases which I would not on my own responsibility undertake to remove, some of them I am sure being non-lepers, and in the others the disease, if it exists at all, not being far enough advanced for a non-medico to order their removal.

As far as their going peaceably is concerned my trip was only a partial success. The majority indeed, among whom is J. Kauai, desire to go, and will make no trouble, but about four or five of the young, strong fellows, say they will not go, while as many more were non-committal. Should the obstinate ones be removed, the non-committal ones will undoubtedly go of their own accord. The well people are some of them in favor of having the lepers removed, while others are against it, and others again, indifferent. The amount and kind of intimacy existing between lepers and non-lepers at Kalalau is simply abominable. I believe that first and last there will be fifty cases of leprosy in consequence of the lepers having been allowed to remain at Kalalau during the last five years, that would not otherwise have existed. I came to an agreement with the people who were willing to go that they were to be ready during the last week in July. J. Kauai willing to return to Waimea to settle up his affairs I allowed him to do so, as well as some other Waimea people. I think the results of my trip are all that could under the circumstances, be reasonably expected.

I am respectfully, L. H. STOLZ, Deputy Sheriff.

After all the above correspondence Mr. Stolz came to Honolulu about two weeks ago and interviewed the members of the Board of Health, and at his own expressed wish and with the understanding that he could accomplish the removals without bloodshed, he was allowed to have his way.

FLOTSAM AND JETSAM.

ARRIVAL AND DEPARTURE OF THE ALAMEDA

Four Sailing Vessels Go Out This Afternoon—The Historic Hartford in Commission.

VALLEJO, June 18.—The historic old warship Hartford, now moored in Rotten Row at Mare Island, where for many years she has been the plaything of the tide, is about to be taken from the Row and put in commission, in accordance with Congressional legislation. By a recent act of Congress the Hartford and Kearsarge are to be kept on the active list of the warships of the American Navy, regardless of all expense. This old vessel does not come under the ten per cent repair law, which prohibits the repair of any ship of war where the aggregate cost of repairs shall exceed ten per cent of the original cost.

Before the Hartford is placed in commission she will be stripped of her old-style batteries and fittings, her engines repaired and new boilers put in. The old battery will be replaced by a battery of modern high-power guns, it being the intention of the Navy Department to equip her with six-inch rifles for the main battery, supported by a battery of four-inch rapid-fire rifles. The ship will be totally dismantled and the sail-carrying capacity reduced to a rig similar to that of the cruiser Chicago. This change will make the Hartford bark-rigged with no yards above the topgallant yards.

The board of survey has surveyed the Hartford and estimates and figures have been given for the repairing and refitting of her throughout, including the addition of an electric plant and many other modern improvements. These estimates are now in the hands of the heads of the various naval bureaus at Washington, where they are being revised preparatory to submitting them to Congress, which will be asked to make the necessary appropriation.

The Hartford is in a bad state of decay in many places, which will necessitate the removing of many of her timbers. To do this it will be necessary to put her on the dock.

The recommissioning of the Hartford is due directly to the efforts of the old naval officers who fought with her in various battles, and who deemed it unjust to let the vessel rot away in ignominious idleness while the Kearsarge is doing active duty on the home station.

The Oceanic Steamship Company's liner Alameda, Commander Morse, docked at the company's wharf at 5:30 o'clock this morning, six days and thirteen hours from San Francisco. She brings a large list of cabin passengers and about 250 tons of freight for this port. The commander reports having experienced fine weather on the voyage, and smooth seas, with moderate N.W. and S.E. winds.

The American barkentine Hilo and Mary Winkelman, and American schooner Robert Lewis all got away this afternoon with sugar for San Francisco.

The bark Ceylon hauled alongside old Custom House wharf from the O. R. and L. dock to-day.

The American bark Kate Davenport left in ballast at noon to-day for Port Townsend.

FRIDAY, JUNE 30.

DIAMOND HEAD, 3:40 P. M.—Weather cloudy. Wind light, N.E.

ARRIVALS.

FRIDAY, June 30.

R. M. S. S. Alameda, Morse, from San Fran. Schr. Liholho, Berry, from Waialeale.

DEPARTURES.

FRIDAY, June 30.

R. M. S. S. Alameda, Morse, for the Colonies. Steamer Claudine, Davies, for Maui and Hawaii. Steamer Waialeale, Smythe, for Hanalei and Kalalau. Am. bk. Hilo, Le Ballester, for San Francisco. Am. bk. Mary Winkelman, Nissen, for San Francisco. Am. sch. Robt Lewis, Goodman, for San Francisco. Am. sch. Kate Davenport, Reynolds, for Puget Sound.

PROJECTED DEPARTURES.

Steamer